



# Chartered Institute of Arbitrators London Branch

Parton: Dame Elizabeth Gloster DBE

**EXPERT DETERMINATION: THE CURRENT POSITION**  
**Sir Peter Cresswell; Tony Canham; Clive Freedman; Professor Grant Jones**  
**Daniel Djanogly (Chair)**



**Hosted by KPMG LLP, 8 Salisbury Square, London EC4Y 8BB**  
**Tuesday 28<sup>th</sup> February 2012 – 6.00pm for 6.30pm**

The London Branch is delighted to present a seminar on expert determination hosted by KPMG at their offices off Fleet Street. Expert determination is a widely used ADR technique which, while commonly associated with the resolution of valuation and technical issues, can also be used to decide legal issues. In outline, the disputing parties appoint a third party to act as expert, not arbitrator, to decide the issue(s) and agree to be bound by the decision. It is an inquisitorial process offering privacy, informality and the choice of dispute resolver with relevant technical expertise. The determination is usually issued without reasons, there is no right of appeal and opportunities for challenge are limited. A provision for expert determination can be embedded within an existing contractual agreement on its own or as part of a tiered dispute resolution mechanism, or can be part of a settlement agreement. Its scope of application is extensive and includes shareholder, M&A, commercial and infrastructure disputes in the UK and internationally and with significant monetary sums involved. With the current growing interest in the use of ADR techniques generally, this seminar represents a timely opportunity to review how this technique is positioned. Accordingly we are very pleased to have as speakers a first class range of practising ADR professionals and advisers who will each comment from their own unique perspectives on current practice, use and effectiveness of expert determination.

- **Sir Peter Cresswell** has over 40 years' experience of dispute resolution as barrister, QC, Chairman of the Bar and judge dealing with claims arising in business, commerce and trade including those relating to insurance, arbitration and the export and import of goods. He was responsible (as judge in charge of the Commercial Court in 1993/4) for the first and pioneering Practice Direction which encouraged litigants to consider mediation as an alternative to expensive and time consuming litigation. Sir Peter is currently an arbitrator and mediator in international disputes.
- **Tony Canham** is a Past President of the Chartered Institute of Arbitrators, a Chartered Arbitrator, Chartered Engineer, Fellow of the Institution of Civil Engineers, Fellow of The Academy of Experts, and President of the Society of Construction Arbitrators. He has been engaged in dispute resolution since 1977 providing adjudication, arbitration, expert evaluation, expert determination and mediation services. Since 2002 he has been engaged full time in international arbitration and Dispute Board work in construction, Oil and Gas infrastructure and capital plant disputes.
- **Clive Freedman** is a Barrister at 3 Verulam Buildings and a Chartered Arbitrator and Mediator. His main area of specialisation is IT disputes, particularly contractual disputes arising from IT projects. He is co-author of Expert Determination (Thomson Sweet & Maxwell, 2008), and has contributed to Banking Litigation (Thomson Sweet & Maxwell), and Bullen and Leake and Jacob's Precedents of Pleadings (chapter on IT disputes). He is a Fellow of the British Computer Society and Chair of its Disciplinary Tribunal. He is a trustee of the Society for Computers & Law and of BAILII. Clive will consider, in particular, enforcement of expert determination clauses and UK legal developments in this area.
- **Grant Jones** is a Chartered Accountant, a Solicitor, a NY Attorney, a Licensed Insolvency Practitioner, a Nottingham University Law Professor, a partner with Cooper Parry LLP, a consultant to the legal practices of Taylor Vinters (London) and Ellul & Co (Gibraltar), in-house counsel to the hedge fund SISU Capital Ltd, a member of the CI Arb London Branch committee, as well as the President of the London Society of Chartered Accountants. Grant's ADR experience is primarily acting as an arbitrator or expert in financial disputes.
- **Daniel Djanogly (Chair)** is a forensic accountant expert witness, expert determiner and arbitrator. He is a Chartered Accountant and Chartered Arbitrator. For the last 20 years Daniel has specialised in providing expert services in the resolution of accounting, financial and valuation issues in UK and international business disputes. In particular he deals with shareholder disputes, and those involving M&A transactions and commercial agreements. Daniel has undertaken many appointments as expert determiner; he runs the LinkedIn Group: Expert Determination and is a CI Arb London Branch committee member.

**Following the Seminar, which will conclude around 8pm, KPMG LLP will generously host a reception for the speakers and all attendees.**

**Kathryn Britten**, a Partner within KPMG's Dispute Advisory Services practice and Chairman of KPMG Forensic, will be one of our hosts on the evening and will also say a few words. Kathryn has more than 35 years' experience in the accounting profession where she focuses on expert witness and dispute advisory services. She is an experienced mediator and expert determiner. When Kathryn joined KPMG 2 years ago she added to the breadth and depth of the team's already extensive experience of arbitration and alternative dispute resolution. KPMG's Dispute Advisory Services provide impartial and authoritative advice and testimony to assist in the resolution of disputes whether in the forum of arbitration, litigation, mediation, an insurance claim or transaction price negotiation

**There is no charge to attend this seminar but, in view of capacity limitations, attendees MUST register in advance with Elinor Pritchard [[elinor@thevirtualpartnership.co.uk](mailto:elinor@thevirtualpartnership.co.uk)]**